fact is sufficiently established to be the basis for a reasonable inference, such inference may be drawn and used in connection with other facts, or even alone, as the foundation for a fresh inference.[12] If each inference is reasonable, the verdict, which is the final inference, cannot fail to be reasonable, and hence unimpeachable. This sounder rule is sometimes stated as an exception to the maxim that there shall be no presumption on a presumption;[13] but it is apparent that the exception, rightly understood, eats up the rule. Like numerous other impressive legal phrases, which serve but to obscure,[14] the maxim may profitably be discarded.

CONTROL RETAINED BY THE INCORPORATING STATE OVER THE OBLIGATIONS OF A FOREIGN CORPORATION. — Two conflicting decisions, handed down within a few months of each other on precisely the same state of facts, illustrate the perplexing uncertainty which prevails concerning the extent of legislative control over the obligations of a foreign corporation retained by the sovereign of its domicile. In each case the plaintiff joined, in New York, a Canadian mutual benefit insurance association. By the authority of an act of the Canadian Parliament, subsequently adopted, an otherwise unauthorized assessment was levied on the members of the association, and declared a lien on their policies. In a suit to enjoin the enforcement of the lien, the Supreme Court of New York held it invalid. *M'Clement* v. *Supreme Court, I. O. F.*, 88 Misc. 475. On the same facts, in an action on the policy, a federal court, sitting in New York, reached the opposite conclusion. *Stockwell* v. *Supreme Court, I. O. F.*, 216 Fed. 205 (Dist. Ct., W. D., N. Y.).

The question of what law governs the obligation and the discharge of contracts is one as to which there is still no consensus of legal opinion.[1] A discussion of this problem in relation to the principal cases, however, would be futile, for in each case, the place of making was identical with the place of performance. Furthermore, the principle invoked by the federal court operates entirely without regard to the law that would normally govern a contract. Following the case of *Canada Southern Ry. Co.* v. *Gebhard*,[2] this court affirms broadly that as to contracts with a foreign corporation, the local law is subject in all respects to the legislative control that may be constitutionally exercised over the corporation at its domicile. To some extent, this notion is a familiar one. Thus it is elementary that the creating sovereign can put an end to the existence

[12] See BEST, PRESUMPTIONS OF LAW AND FACT, p. 247, "The existence of the principal or any intermediary evidentiary fact may be inferred from another, which is only the probable consequence of a third."

[13] Hinshaw *v.* State, 147 Ind. 334, 363, 47 N. E. 157, 166. "This process of tallying and confirming each circumstance by the others does not infringe the general rule that one inference cannot be based on another. There is an important exception to that rule, however. A fact in the nature of an inference may itself be taken as the basis of a new inference, whether intermediate or final, provided the first inference has the required basis of a proved fact."

[14] See Judge Smith, "The Use of Maxims in Jurisprudence," 9 HARV. L. REV. 13.

[1] For a statement of the conflicting views, see a series of articles by Prof. J. H. Beale in 23 HARV. L. REV. 1, 79, 194, 260; see also, BEALE, SUMMARY OF THE CONFLICT OF LAWS, § 97.

[2] 109 U. S. 527.

of the corporation everywhere.[3] Moreover, if the right has been reserved, it may appoint a successor to all the rights of action belonging to the corporation.[4] The shareholder's liability for the debts of the corporation is likewise governed by the law of the incorporating state.[5] Limitations imposed in the charter hamper the corporation wherever it is allowed to do business.[6] And, finally, it was established by the Gebhard case that all persons dealing with a foreign corporation are bound by subsequent legislation altering the powers and obligations of the corporation, which is valid by the law of the corporation's domicile, even though such legislation would be unconstitutional if tested by the law governing the contract.[7] It is essential, however, that such statutory changes be constitutional by the law of the state of charter, and this requirement, in view of the provisions of our federal and state constitutions, practically limits the doctrine to corporations created outside of the United States.[8]

To determine the application of these authorities to the principal cases, it is essential to inquire into the precise nature of the assessment. It is clear in the first place that it created no personal obligation which the association could have enforced against the insured,[9] and it is therefore unnecessary to seek consent by the member to the legislative jurisdiction of Canada. But the assessment did purport to establish a lien on the policy in favor of the association, and to discharge its obligation to that extent. In so far as the holder of a mutual benefit insurance policy corresponds to a stockholder in a corporation,[10] his position with respect to assessments of this kind appears to depend on the law of the state of

[3] Remington *v.* Samana Bay Co., 140 Mass. 494, 5 N. E. 292; Marion Phosphate Co. *v.* Perry, 74 Fed. 425; Princess of Reuss *v.* Bos, L. R. 5 H. L. 176. See also Rust *v.* United Waterworks Co., 70 Fed. 129, where it was held that officers of the corporation enjoined from acting for the corporation by the courts of its domicile could not act abroad.

[4] Relfe *v.* Rundle, 103 U. S. 222.

[5] Bernheimer *v.* Converse, 206 U. S. 516; Howarth *v.* Lombard, 175 Mass. 570, 56 N. E. 888; see 23 HARV. L. REV. 37.

[6] Thus it is well settled that the *ultra vires* nature of an act is to be determined by the law of the domicile; Banque Franco-Egyptienne *v.* Brown, 34 Fed. 162; Southern Mut. Aid Ass'n *v.* Cobb, 60 Fla. 198, 53 So. 505; Fidelity Mut. Life Ass'n *v.* Ficklin, 74 Md. 172, 21 Atl. 680; Warner *v.* Delbridge & C. Co., 110 Mich. 590, 68 N. W. 283. But of course a statute of the state of charter may be construed to be inapplicable to acts done outside the state. Metropolitan L. Ins. Co. *v.* Bradley, 98 Tex. 230, 82 S. W. 1031; Grevenig *v.* Washington L. Ins. Co., 112 La. 879, 36 So. 790. *Cf.* Supreme Council of Royal Arcanum *v.* Brashears, 89 Md. 624, 43 Atl. 866, where a statute of the incorporating sovereign was construed to apply outside the state in order to secure uniform treatment of all members of the association.

[7] This rule must rest on the ground that the obligations of foreign corporations are inherently subject to the law of the state of their creation. It seems impossible to argue that the parties, when making the contract, agreed on that law as the one to discharge it.

[8] It has been held that subsequent statutes passed at the domicile, which would be invalid there as impairing the obligation of contracts, will not be recognized elsewhere as binding those who have contracted with the corporation. Provident Sav. Life Assur. Soc. *v.* Bailey, 118 Ky. 36, 80 S. W. 452; Green *v.* Supreme Council of Royal Arcanum, 206 N. Y. 591, 100 N. E. 411.

[9] Lehman *v.* Clark, 174 Ill. 279, 51 N. E. 222; Gibson *v.* McGrew, 154 Ind. 273, 56 N. E. 674.

[10] Thus it is often loosely said that the holder of a mutual insurance policy is both insurer and insured, and stands in the position of a stockholder in the corporation. See NIBLACK, BENEFIT SOCIETIES, pp. 9, 471; 2 MAY, INSURANCE, 4 ed., §§ 548, 549.

charter in the same way that the stockholder's liability for assessments,[11] or to have liens declared on his stock [12] is determined by valid regulations of the incorporating sovereign. Entirely apart from this, however, the assessment may be considered as equivalent to a partial discharge of the policy. The situation is then exactly covered by the authorities. For anything done at the legal home of the corporation under the authority of its constitutionally enacted laws "which discharges it from liability there, discharges it from liability everywhere." [13] Even if resort to a new corporate power to insert this added condition precedent to liability be thought necessary, the situation is controlled by the broad language of the Gebhard case, although that decision on its facts may be limited to the discharge of obligations.

The only avenue of escape from this conclusion is the one taken by the New York case. It is, of course, well settled that local policy may lead a state to refuse to recognize a corporate power granted by a foreign sovereign.[14] By the same token, in view of the rigorously asserted policy of our law which finds expression in the Contract Clause, it is said that foreign corporations should be given no greater opportunity to avoid their obligations by the aid of a friendly legislature than is accorded to corporations created within the state.[15] But on the whole, it seems unwise to give effect to such an uncertain principle for the sake of protecting those who know that they are dealing with corporations created by sovereigns outside of the United States, and should realize that they are at the mercy of the sovereigns with whose creatures they deal.

THE FOURTEENTH AMENDMENT AND THROUGH CONNECTING CARRIAGE. — At common law through connecting carriage of carload shipments was beyond the scope of a rail carrier's public duty, and so was entirely dependent on unregulated private arrangement between connecting carriers.[1] Perhaps a single exception existed in a duty to accept and forward carload shipments, without reloading, when tendered at a point of

[11] See *supra*, n. 5. No case has been found in which subsequent statutory liability was sought to be imposed on shareholders by a sovereign other than one of the United States, but it seems that in the absence of any constitutional prohibition at the domicile against impairing the obligation of contracts, such a statute would be effective.

[12] See Hudson River Pulp & Paper Co. *v.* Warner & Co., 99 Fed. 187. See also Warner *v.* Delbridge & C. Co., 110 Mich. 590, 594, 68 N. W. 283, 285.

[13] See Canada Southern Ry. *v.* Gebhard, *supra*, p. 538.

[14] Briscoe *v.* Southern Kansas Ry. Co., 40 Fed. 273.

[15] See dissenting opinion by Harlan, J., in Canada Southern Ry. Co. *v.* Gebhard, *supra*, p. 540.

[1] A carrier was bound to accept goods tendered by another carrier in the same manner as goods tendered by a private person. See 22 HARV. L. REV. 566–570. But it was under no obligation to make any different arrangements for the reception of connecting traffic. Thus it need not establish through routes or rates. Atchison, T. & S. F. R. Co. *v.* Denver & N. O. R. Co., 110 U. S. 667. *A fortiori*, it would seem, it was not bound to permit or establish physical connections. Kentucky & Indiana Bridge Co. *v.* Louisville & Nashville R. Co., 37 Fed. 567, 621. So it could establish through routing with one carrier and refuse another under similar circumstances, without unlawful discrimination. Atchison, T. & S. F. R. Co. *v.* Denver & N. O. R. Co., *supra*. See also Little Rock & M. R. Co. *v.* St. Louis, I. M. & S. Ry. Co., 59 Fed. 400; Oregon Short Line & U. N. Ry. Co. *v.* Northern Pacific R. Co., 61 Fed. 158.